



City Council Meeting Amended Agenda

Tuesday, February 2, 2021

1:30 PM

Virtual Meeting - <https://sanjoseca.zoom.us/j/91325378626>

SAM LICCARDO, MAYOR
CHAPPIE JONES, VICE MAYOR, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
RAUL PERALEZ, DISTRICT 3
DAVID COHEN, DISTRICT 4
MAGDALENA CARRASCO, DISTRICT 5
DEV DAVIS, DISTRICT 6
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
MATT MAHAN, DISTRICT 10



The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support** - The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Public Safety** - Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.
- **Transportation & Aviation Services** - A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environmental and Utility Services** - Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Neighborhood Services** - Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Community & Economic Development** - Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- o **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- o When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.

- o Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- o To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 6 p.m. as needed, unless otherwise noted. The City Council, or less than a quorum, may adjourn any regular, special or adjourned meeting to a later date, time and place specified in the order of adjournment. If all members are absent, the City Clerk may declare the meeting adjourned to a stated date, time and place. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <https://www.sanjose.legistar.com/Calendar.aspx>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Please go to the Clerk's Records Database <https://records.sanjoseca.gov/Pages/Search.aspx> for the final document, or you may also contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov.

American Disability Act: To request an alternative format agenda under the Americans with Disabilities Act for City-sponsored meetings, events or printer materials, please call (408) 535-1260 as soon as possible, but at least three business days before the meeting.

Accommodations: Any member of the public who needs accommodations should email the ADA Coordinator at ADA@sanjoseca.gov or by calling (408) 535-8430. The ADA Coordinator will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

On occasion the City Council may consider agenda items out of order.

*** COVID-19 NOTICE ***

Consistent with the California Governor's Executive Order No. N-29-20, Resolution No. 79485 from the City of San José and the Santa Clara County Health Officer's March 16, 2020 Shelter in Place Order, the City Council meeting will not be physically open to the public and the City Council will be teleconferencing from remote locations.

How to observe the Meeting (no public comment):

- 1) Cable Channel 26,
- 2) <https://www.sanjoseca.gov/news-stories/watch-a-meeting>, or
- 3) <https://www.youtube.com/CityofSanJoseCalifornia>

How to submit written Public Comment before the City Council Meeting:

- 1) Use the eComment tab located on the City Council Agenda page. eComments are also directly sent to the ilegislate application used by City Council and staff.
- 2) By email to city.clerk@sanjoseca.gov by 10:00 a.m. the day of the meeting. Those emails will be attached to the Council Item under "Letters from the Public." Please identify the Agenda Item Number in the subject line of your email.

How to submit written Public Comment during the City Council Meeting:

- 1) Email during the meeting to councilmeeting@sanjoseca.gov, identifying the Agenda Item Number in the email subject line. Comments received will be included as a part of the meeting record but will not be read aloud during the meeting.

How to provide spoken Public Comment during the City Council Meeting:

- 1) By Phone: (888) 475 4499. Webinar ID is 913 2537 8626. Click *9 to raise a hand to speak. Click *6 to unmute when called.
Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free)
- 2) Online at: <https://sanjoseca.zoom.us/j/91325378626>
 - a. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
 - b. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
 - c. When the Mayor calls for the item on which you wish to speak, click on "raise hand." Speakers will be notified shortly before they are called to speak.
 - d. When called, please limit your remarks to the time limit allotted.

- Call to Order and Roll Call

9:30 a.m.- Closed Session

[21-174](#)

Closed Session Agenda

Attachments [Closed Session Agenda](#)

1:30 p.m.- Regular Session

- Pledge of Allegiance
- Invocation (District 2)
- Orders of the Day

To be heard after Ceremonial Items

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- Closed Session Report

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

2.1 Approval of City Council Minutes.

2.2 Final Adoption of Ordinances.

2.3 Approval of Council Committee Minutes.

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.**2.6 Report from the Council Liaison to the Retirement Boards.****2.7 [21-175](#) Ordinance Amending Loans in Voluntary 457 Deferred Compensation Plan.**

Recommendation: Approve an ordinance to amend Section 3.48.140 of Chapter 3.48 of Title 3 of the San José Municipal Code relating to loans in the voluntary 457 Deferred Compensation Plan.
CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.
(Human Resources)

Attachments [Memorandum](#)
 [Ordinance](#)

2.8 [21-176](#) Agreement with Santa Clara Valley Transportation Authority for Bus Shelter Advertising Revenue. - DEFERRED

Recommendation: Approve an Agreement between the City of San José and Santa Clara Valley Transportation Authority to share bus shelter advertising revenue generated from bus shelters located in the City of San José retroactive from January 1, 2018 through December 31, 2021.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.
(Public Works)
DEFERRED TO 2/9/2021 PER ADMINISTRATION

Attachments [Agreement](#)
 [Letters from the Public](#)

2.9 [21-180](#) Actions Related to the 8775 - Sanitary Structure Cover Repairs II Project.

Recommendation: (a) Approve an increase in the construction contingency for the 8775 - Sanitary Structure Cover Repairs II Project (Project) in the amount of \$163,100 from \$61,480 resulting in a new contingency of \$224,580 and increasing the total contract amount from \$ 614,800 to \$839,380.
 (b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute change orders for additional work related to unforeseen Project conditions in an amount not to exceed the revised total contract amount of \$839,380.
 CEQA: Exempt, File No. PP15-004, dated January 20, 2015. Council Districts 3 and 6. (Public Works)

Attachments [Memorandum](#)

2.10 [21-177](#) East San José Multimodal Transportation Improvement Plan (En Movimiento). - RENUMBERED TO ITEM 5.1

Recommendation: Adopt the East San José Multimodal Transportation Improvement Plan (En Movimiento).
 CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto (File No. ER21-001). Council Districts 3 and 5. (Transportation) [RENUMBERED TO ITEM 5.1 (21-247)]

Attachments [Memorandum](#)
 [Attachment](#)

2.11 [21-178](#) Active Transportation Program Cycle 5 Quick Build Pilot Grant Funding Agreement.

Recommendation: Approve the following actions to receive grant funds from the California Transportation Commission (CTC) for the Active Transportation Program (ATP) Cycle 5.

(a) Adopt a resolution authorizing the City Manager or designee to negotiate and execute an ATP grant agreement with the CTC, and administered by California Department of Transportation (Caltrans), in an amount not to exceed \$622,149 for reimbursement.

(b) Adopt the following Funding Source Resolution and Appropriation Ordinance amendments in the Construction Excise Tax Fund:

(1) Increase the estimate for Revenue from State of California by \$72,000; and

(2) Establish the ATP Quick Build Edenvale and Sylvandale Ped and Bike Safety Improvements appropriation to the Department of Transportation in the amount of \$72,000.

CEQA: Categorically Exempt, File No. PP18-029, CEQA Guideline Section 15301(c) Existing Facilities. (Transportation/City Manager)

Attachments [Memorandum](#)

2.12 [21-196](#) Approval of American Heart Month Sponsored by Council District 6 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.

Recommendation: As recommended by the Rules and Open Government Committee on January 20, 2021:

(a) Approve the American Heart Month scheduled on February 2, 2021 as a City Council sponsored Special Event and approve the expenditure of funds.

(b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Davis)

[Rules Committee referral 1/20/2021 - Item G.1.a]

Attachments [Memorandum](#)

2.13 [21-257](#) Boards and Commission Appointments.**Recommendation:**

Approve the following Council Appointment Advisory Commission appointment:

(a) Citywide Seat: Appoint Mary Cheryl Gloner to a third term ending December 31, 2023 because the reappointment is necessary under San José Municipal Code Section 2.08.150.F in order to maintain a functioning quorum or to retain valuable experience on the Commission. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no changes to the physical environment. (City Clerk)
[Rules Committee referral 1/27/2021 - Item A.1.a]

Attachments [Memorandum](#)
[Application](#)
[Conflicts Review](#)

2.14 [21-258](#) COVID-19 Related Airport Air Service Support Program.**Recommendation:**

As recommended by the Rules and Open Government Committee on January 27, 2021, adopt a resolution to revise the Airport Air Service Support Program to reduce the minimum weekly flight threshold that is a condition to receive fee waivers and marketing support retroactive from January 1, 2021 through the termination or expiration of the City's Proclamation of COVID-19 Local Emergency and repeal Resolution No. 78802.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Airport)
[Rules Committee referral 1/27/2021 - Item A.1.a]

Attachments [Memorandum](#)
[Resolution](#)

3. STRATEGIC SUPPORT**3.1 Report of the City Manager, David Sykes (Verbal Report)**

[21-179](#) (a) City Manager's COVID 19 Update (Verbal Report)
 (b) City Manager's Report on Other City Matters (Verbal Report)

Attachments [Presentation](#)

3.2 Labor Negotiations Update.

Accept Labor Negotiations Update.
TO BE HEARD AT 9:30 A.M.

3.3 [21-188](#)

**City's COVID-19 Response: Child Care Update. - NOT TO BE HEARD
BEFORE 4:00 P.M.**

Recommendation:

Accept the verbal report on child care and the City's COVID-19 response.
CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action (Parks, Recreation and Neighborhood Services)
NOT TO BE HEARD BEFORE 4:00 P.M.

Attachments [Memorandum from Arenas, 2/2/2021](#)
[Presentation](#)

3.4 [21-256](#) Hazard Pay for Retail Food Workers.**Recommendation:**

As recommended by the Rules and Open Government Committee on January 27, 2021, direct the City Attorney to draft an urgency ordinance requiring hazard pay for retail food workers. The ordinance shall:

- (a) Guarantee hazard pay of an additional five dollars an hour for retail food workers;
- (b) Apply to retail establishments that sell meats, poultry, dairy products, fresh fruits and vegetables and have at least 300 employees nationwide;
- (c) Allow for a private right of action;
- (d) Include a credit for retail establishments that currently provide pay increases related to the COVID-19 pandemic;
- (e) Commence immediately upon Council approval and continue until the Santa Clara County Health Officer has lifted mandatory directives for implementing the State's Regional Stay at Home Order related to the COVID-19 pandemic.

CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no changes to the physical environment. (Jimenez)

[Rules Committee referral 1/27/2021 - Item G.3]

Attachments [Replacement Memorandum, 2/2/2021](#)
[Memorandum from Mayor, 2/1/2021](#)
[Memorandum from Jones, 2/2/2021](#)
[Letters from the Public - 1 of 2](#)
[Letters from the Public - 2 of 2](#)

4. PUBLIC SAFETY SERVICES**5. TRANSPORTATION & AVIATION SERVICES**

5.1 [21-247](#) East San José Multimodal Transportation Improvement Plan (En Movimiento). - RENUMBERED FROM ITEM 2.10

Recommendation: Adopt the East San José Multimodal Transportation Improvement Plan (En Movimiento).
CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), adopted through Resolution No. 76041, and Supplemental EIR Resolution No. 77617, adopted on December 15, 2015, and Addenda thereto (File No. ER21-001). Council Districts 3 and 5. (Transportation) [RENUMBER FROM ITEM 2.10 (21-177)]

Attachments [Memorandum](#)
 [Memorandum from Peralez & Carrasco, 1/29/2021](#)
 [Attachment](#)
 [Presentation](#)
 [Letters from the Public](#)

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

8.1 [21-181](#) Approval of an Exception to the City Multifamily Housing Revenue Bond Policy Allowing the Auzerai Affordable Housing Development and Meridian Avenue Affordable Housing Development to Utilize an External Bond Issuer.

Recommendation: Adopt a resolution authorizing an exception to the City's Policy for the issuance of Multifamily Housing Revenue Bonds for the Auzerai Apartments project and for Meridian Avenue Affordable Housing Development project, thereby allowing issuance for those projects by the Municipal Finance Authority and California Statewide Communities Development Authority respectively.
CEQA: 425 Auzerai Apartments project is exempt from CEQA review per Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15369, Ministerial Project pursuant to Government Code Section 65913.4, File No. ER20-109; and Environmental Impact Report for the Meridian Apartments Project, File No. SP19-064. (Housing)

Attachments [Memorandum](#)
 [Resolution](#)

8.2 [21-259](#)**Adoption of 2021 Moratorium on Rent Increases for Tenants and Mobilehome Residents and Owners Financially Impacted by COVID-19.****Recommendation:**

As recommended by the Rules and Open Government Committee on January 27, 2021:

(a) Adopt an Urgency Ordinance that establishes a moratorium on rent increases to be effective through June 30, 2021 for tenants residing in rent stabilized apartments, mobilehome owners, and mobilehome residents of mobilehomes subject to rent control who submit to their Landlord prior to the effective date of the rent increase a signed Declaration of COVID-19-Related Financial Distress.

(1) Invoke the urgency provisions in the City Charter, as an emergency measure for immediate preservation of the public peace, health and safety, to include additional provisions protecting against rent increases through June 30, 2021.

PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3)

(b) Approve a Companion Ordinance that establishes a moratorium on rent increases to be effective through June 30, 2021 for tenants residing in rent stabilized apartments, mobilehome owners, and mobilehome residents of mobilehomes subject to rent control who submit to their Landlord prior to the effective date of the rent increase a signed Declaration of COVID-19-Related Financial Distress.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

(Housing)

[Rules Committee referral 1/27/2021 - Item A.1.a]

Attachments

[Memorandum](#)

[\(a\) Ordinance](#)

[\(b\) Ordinance](#)

[Presentation](#)

[Letters from the Public](#)

9. REDEVELOPMENT – SUCCESSOR AGENCY**10. LAND USE**

Notice to the public: There will be no separate discussion of Land Use Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Land Use Consent Calendar (Item 10.1) and considered separately.

10.1 Land Use on Consent Calendar

No Land Use items on Consent Calendar.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

- **Open Forum**

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

- **Adjournment**

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions: § No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Council, Committee, Board or Commission.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.